

Comments of the  
California Large Energy Consumers Association  
on the Draft Gap Analysis/Choice Action Plan  
November 13, 2018

The California Large Energy Consumers Association (CLECA)<sup>1</sup> provides these limited comments on the Draft Gap Analysis/Choice Action Plan (Draft Gap Analysis). These comments focus on the following key points:

- 1) The need for adherence to uniform rate design principles across proceedings, ideally based on the ratemaking principles developed by professor James Bonbright (Bonbright principles) and to recognize that Community Choice Aggregators (CCAs) can develop their own time-of-use rates and dynamic rates;
- 2) The need for greater clarity and consistency in the discussion of what costs self-generating customers impose and should pay for and those costs they should not pay (in one place, the Public Purpose Programs is the focus, in another, fixed charges are the focus);
- 3) Support for consideration of Resource Adequacy value of non-investor owned utility demand response and a consistent assessment of demand response; and
- 4) In connection with access to customer data, the need to recognize the importance of maintaining customer data confidentiality.

These comments are provided in the format requested, with references to the category or topic being commented upon.

**1. Category: Duty to Serve/Reliability and Resource Procurement; Topic: Rate Design; Issue: Are the current IOU rates structure to send the proper price signals to consumers? (p. 35)**

CLECA recommends that Commission strive to adhere to a uniform set of rate design principles, ideally based on the Bonbright principles, across its proceedings, and notes that a set of rate design principles has already been developed by the Commission. The Draft Gap Analysis, however, develops a new list of nine “attributes of proper rate design” and states that

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<sup>1</sup> CLECA is an organization of large industrial electric customers of Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE); the member companies are in the steel, cement, industrial gas, mining, pipeline, cold storage, and beverage industries and share the fact that electricity costs comprise a significant portion of their costs of production. Some members are bundled customers, others are Direct Access (DA) customers, and some are served by Community Choice Aggregators (CCAs); a few members have onsite generation. CLECA has been active in Commission proceedings since the early-to-mid 1980s and strives for even-handed treatment of all customers.

"[b]y setting priorities in the proceedings, each of the elements listed [*i.e.*, the attributes of proper rate design] ... can be addressed." The identified attributes are:

1. Encourage efficient and cost-effective use of electricity
2. Properly value the carbon content of electricity
3. Help integrate renewable resources into the electric grid
4. Do not inhibit the development of behind the meter technologies
5. Prevent undue cost shifting to bundled customers
6. Allow IOUs to remain indifferent to loss of customer demand
7. Allow competitive services and providers to participate in an open market platform
8. Maintain reliable service
9. Properly compensate the utilities for grid compensation and other services that are not otherwise compensated<sup>2</sup>

First, it is not clear what is meant by "properly value the carbon content of electricity." The price of carbon in California is already reflected in California's electricity rates, as cogently described on the Commission's website explaining the impact of the Greenhouse Gas Cap-and-Trade Program on electric utilities:

Under California law, electricity companies that import or supply electricity from non-renewable sources must purchase permits (known as "allowances") for the greenhouse gas emissions that comes from burning fuel to make this electricity. This gives the electricity industry incentive to find the cheapest and cleanest way to provide electricity to customers.

When utilities buy electricity from power plants that emit greenhouse gases, these pollution costs are reflected in all customers' electricity generation rates - the portion of electricity bills that represents the costs to generate electricity. The California Climate Credit is intended to help protect households and eligible small businesses from these costs.<sup>3</sup>

The utilities' recent ERRAs update filings for 2019 rates demonstrate this in detail; direct GHG costs (with other fuel and procurement costs) are costs recovered in rates; for example, for SCE for 2019, the total forecast GHG costs to be recovered in rates are \$295.6 million.<sup>4</sup> The utilities' rates also reflect allowance revenue returns to offset those costs. For example, for 2019:

- SCE will reflect a total GHG allowance revenue return of \$413.3 million;<sup>5</sup>
- PG&E will reflect a total GHG allowance revenue return of \$324.5 million;<sup>6</sup>

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<sup>2</sup> Gap Analysis, at 35.

<sup>3</sup> <http://www.cpuc.ca.gov/General.aspx?id=5932>

<sup>4</sup> See SCE Updated Testimony Energy Resource Recovery Account (SCE ERRA Update) in A. 18-05-003, at 69; see also PG&E Update to Prepared Testimony (PG&E ERRA Update), dated Nov. 7, 2018, in A. 18-06-001, at 20, Table 3-3, line 7 "Direct GHG Costs" (PG&E costs are confidential).

<sup>5</sup> See SCE ERRA Update, at 69, Table VII-32.

- SDG&E will reflect a total GHG allowance revenue return of \$101.2 million.<sup>7</sup>

Second, it is not clear what is meant by “compensate the utilities for grid compensation and other services that are not otherwise compensated” in number 9. This should be clarified if it is to remain in the final report. Third, the reference on page 36 should be to the Power Charge Indifference Amount (not the Power Cost Indifference Amount).

Finally, and more importantly, the critical, overarching rate design principle should be that rates are cost-based and follow cost-causation principles, yet the Draft Gap Analysis list of proper rate design attributes does not include that critical feature. There is only one mention of cost-effective use of energy, and only one mention of undue cost-shifting to bundled customers (which does not address the shifting of costs among bundled customers or between customer classes). The Commission has undertaken significant rate reform efforts for residential customers, and developed for that purpose the following set of rate design principles:

1. Low Income and medical baseline customers should have access to enough electricity to ensure basic needs (such as health and comfort) are met at an affordable cost;
2. Rates should be based on marginal cost;
3. Rates should be based on cost-causation principles;
4. Rates should encourage conservation and energy efficiency;
5. Rates should encourage reduction of both coincident and non-coincident peak demand;
6. Rates should be stable and understandable and provide customer choice;
7. Rates should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals;
8. Incentives should be explicit and transparent;
9. Rates should encourage economically efficient decision making;
10. Transitions to new rate structures should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates, and minimizes and appropriately considers the bill impacts associated with such transitions.<sup>8</sup>

CLECA participated in the development of the above principles and continues to support them; we believe they reflect Bonbright’s principles, to which CLECA also strongly supports adherence for rate design. Professor Bonbright’s 10 Rate Design Principles are:

1. Effectiveness in yielding total revenue requirements under the fair-return standard without any socially undesirable expansion of the rate base or socially undesirable level of product quality and safety.
2. Revenue stability and predictability, with a minimum of unexpected changes that are seriously adverse to utility companies.

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<sup>6</sup> See PG&E ERRR Update, at 13.

<sup>7</sup> See SDG&E November Update to Application, dated Nov. 7, 2018, in A. 18-04-004, at 4.

<sup>8</sup> <http://www.cpuc.ca.gov/General.aspx?id=12154>

3. Stability and predictability of the rates themselves, with a minimum of unexpected changes that are seriously adverse to utility customers and that are intended to provide historical continuity.
4. Static efficiency, i.e., discouraging wasteful use of electricity in the aggregate as well as by time of use.
5. Reflect all present and future private and social costs in the provision of electricity (i.e., the internalization of all externalities).
6. Fairness in the allocation of costs among customers so that equals are treated equally.
7. Avoidance of undue discrimination in rate relationships so as to be, if possible, compensatory (free of subsidies).
8. Dynamic efficiency in promoting innovation and responding to changing demand-supply patterns.
9. Simplicity, certainty, convenience of payment, economy in collection, understandability, public acceptability, and feasibility of application.
10. Freedom from controversies as to proper interpretation.<sup>9</sup>

The Draft Gap Analysis appears to recommend that the Commission set “priorities in the proceedings” to address its list. CLECA believes that the Commission would be better served by retaining its current list of rate design principles adopted for residential rate design reform, or relying on the Bonbright principles.

At page 38, the Customer Choice Action Recommendations state (in numbered paragraph 3) that “When customers are opted-in to CCA service, they lose the ability to choose TOU and dynamic rates.” This statement, and the recommendation in the following paragraph for CCA customers to be able to enroll in “IOU distribution TOU or dynamic rates” should more clearly acknowledge that CCAs can develop their own TOU rates and dynamic rates. The first statement should be revised as shown below.

When customers are opted-in *or defaulted* to CCA service, they lose the ability to choose IOU TOU and IOU dynamic rates; CCAs are able to offer their own TOU and dynamic rates.

Further, is the recommendation for IOU development of distribution TOU and dynamic rates intended for those rates to be offered to CCA customers only? This should be clarified in the final report. Finally, it is not clear to CLECA that, if there were an optional IOU distribution rate that was either TOU or dynamic, it would be up to the CCA whether or not its customers could

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<sup>9</sup> Edison Electric Institute, *Primer on Rate Design for Residential Distributed Generation*, dated February 2016, at 5 (available online at: <http://www.eei.org/issuesandpolicy/generation/NetMetering/Documents/2016%20Feb%20NARUC%20Primer%20on%20Rate%20Design.pdf>); see also James C. Bonbright, Albert L. Danielsen and David R. Kamerschen, “Principles of Public Utility Rates, 2nd Edition”, Public Utilities Reports (March, 1988)

take service on such a distribution rate. Wouldn't that be up to the individual customer's choice for distribution service? Community choice only extends to the provision of generation service and not to distribution service. Accordingly, it is not clear that a legislative requirement for CCAs to allow their customers to take such service is necessary. We also note that, generally, it takes some time to change IOU rates. It may be that CCAs develop their own TOU and dynamic rates prior to the development of IOU TOU distribution rates or IOU dynamic distribution rates. (We are assuming that the Draft Gap Analysis did not mean for CCA customers to be able to take service on an IOU dynamic pricing rate like critical peak pricing, which is a bundled generation rate only and not applicable to departing customers.)

## **2. Categories: Consumer Protection (p. 31), (p. 37) and Duty to Serve (p. 44)**

There is a need for greater clarity and consistency in the discussion of what charges self-generating customers should and should not pay. In one place, adequate funding for Public Purpose Programs is the focus; this is raised as a concern because some customers who reduce their usage with self-generation or energy efficiency "may not pay the full amount of what is non-bypassable for other departing load customers."<sup>10</sup> In another, the Customer Choice Action Recommendations focuses on "[r]apid BTM [behind the meter] growth that may not be supported by existing rate structures" (i.e., fixed charges).<sup>11</sup> The Draft Gap Analysis recommends rate design changes, and wants rate design to support BTM resource growth. As noted above, BTM resource growth should not be supported by non-cost-based rate structures. The Commission should be able to distinguish between cost-based and non-cost-based rate designs. Per its principles 7 -9 in the residential rate design context: "7. Rates should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals; 8. Incentives should be explicit and transparent"; 9. Rates should encourage economically efficient decision making."<sup>12</sup>

Then, with expanded customer choices of load serving entities and BTM resources, the Draft Gap Analysis asks what "is necessary to support the IOUs as the primary source of distribution grid services, regardless of type of supplier?"<sup>13</sup> It concludes that it "may be necessary to reexamine the existing rate structures, with attention to the relationship of volumetric rates and fixed charges in assuring cost recovery, to identify changes necessary if IOUs (sic) primary role is to provide transmission and distribution services and maintain its infrastructure."<sup>14</sup> This is not clear to CLECA; all customers will continue to pay for transmission and distribution services that they use – regardless of load serving entity or BTM resources (unless those charges are avoided through NEM, most other customers with onsite generation pay standby charges). Having sufficient revenues to recover the distribution utility's cost of service is a very

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<sup>10</sup> Draft Gap Analysis, at 31-32.

<sup>11</sup> Draft Gap Analysis, at 37.

<sup>12</sup> <http://www.cpuc.ca.gov/General.aspx?id=5932>

<sup>13</sup> Draft Gap Analysis, at 44.

<sup>14</sup> Draft Gap Analysis, at 44.

important issue, but it is unclear how this is related to customer choice of generation suppliers. Clarification of the discussion and concern is warranted.

### **3. Category Duty to Serve; Nature of Gap (P. 42)**

The Draft Gap Analysis states that the CPUC can get data on demand response performance for IOU programs through the Load Impact Protocols to determine their Resource Adequacy capacity value, but “no similar requirement exists for demand response provided by third-party aggregators, procured by non-IOU LSEs, like CCAs.”<sup>15</sup> The Draft Gap Analysis concludes that “For CCA procured third-party demand response, the CPUC has not developed similar performance standards.”<sup>16</sup> In Decision 17-10-017, however, the Commission decided to use the Load Impact Protocols to evaluate demand response procured by non-IOU load serving entities.<sup>17</sup> The Draft Gap Analysis should be modified to reflect this determination. CLECA supports the consideration of resource adequacy value of non-IOU demand response.

### **4. Category: Consumer Protection; Topic: Data Access**

In connection with access to customer data, and in particular the possible release of customer data to resource providers, CLECA reiterates the need to maintain customer data confidentiality, particularly for industrial customers, **unless and until the customer agrees to its release**. The Draft Gap Analysis poses the issue as “whether all DERs, LSEs, and other entities can acquire data, and obtain the customers’ permission, in an effective form to get the highest impact from that data.”<sup>18</sup> Troublingly, it appears that the report contemplates release of customer data prior to obtaining the customer’s permission, without clearly indicating that such a release would follow the critically important safeguards for confidential customer usage data.

CLECA is very concerned by the suggestion that the aggregation standards set by D. 14-05-016 for public release of customer usage data “may need to be revised to allow greater DER penetration by building managers, third-party DER providers, and CCAs.”<sup>19</sup> The current rule of at least 15 customers for non-residential usage, of which the largest customer cannot represent more than 15% of the load (the 15/15 standard) must remain intact. If the non-residential sector cannot meet this standard, the usage data cannot be made public due to

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<sup>15</sup> Draft Gap Analysis, at 42.

<sup>16</sup> Draft Gap Analysis, at 42.

<sup>17</sup> D. 17-10-017 at 26 (“this Decision requires the Competing Provider [load serving entity] to also include in the advice letter: the name of the Competing Utility, the Competing Utility’s demand response program(s) that is/are similar to the Competing Provider’s proposed similar program(s) and the most recent load impacts reported for the Utility’s demand response program(s), the ex ante load impacts of the Competing Provider’s proposed similar program in compliance with the adopted load impact protocols, and an explanation of how the proposed programs’ similarities comply with this Decision.”).

<sup>18</sup> Draft Gap Analysis, at 10.

<sup>19</sup> Draft Gap Analysis, at 11.

commercial sensitivities of business customers. For business customers, the current level of protection for customer usage data should continue.

Business customer usage information is highly commercially sensitive for industrial customers and confidentiality should be preserved regardless of who the load-serving entity is or who is providing services to the customer. There are often very few industrial customers in a particular location. The issue has arisen that local governments have asked for usage data for their climate planning, and if there is only one or a handful of industrial facilities in a town or ZIP code, it would be fairly easy to reverse engineer electricity consumption data to determine the usage and thus the output of a particular facility. Local governments had asked for far more granular data than those covered by the 15/15 standard, which in some cases would not allow the public release of the data. With the proliferation of CCAs, maintaining the 15/15 standard may become more difficult as it will require combining customer data by LSE. Regardless, the standard must be maintained.

CLECA appreciates the opportunity to provide these informal comments on the Draft Gap Analysis.